

State of Wisconsin

Circuit Court

Brown County

STATE OF WISCONSIN

-vs-

Plaintiff,

DA Case No.: 2011BR004174

Assigned DA/ADA: Wendy W. Lemkuil

Agency Case No.: DCI11217

Court Case No.: 11CF 708

David J. Townsend
1837 Rowe Lane
Green Bay, WI 54303
DOB: 05/04/1963
Sex/Race: M/W
Eye Color: Blue
Hair Color: Brown
Height: 6 ft 1 in
Weight: 260 lbs

CRIMINAL COMPLAINT

Defendant,

Complainant, Wendy W. Lemkuil, an Assistant District Attorney, being first duly sworn on oath, deposes and says that:

Count 1: POSSESSION OF CHILD PORNOGRAPHY

The above-named defendant, on or about Wednesday, June 15, 2011, in the City of Green Bay, Brown County, Wisconsin, did, having attained the age of 18, knowingly possess photograph(s) of a child engaging in sexually explicit conduct, and knew or reasonably should have known that the child was under the age of 18, contrary to sec. 948.12(1m)&(3)(a) Wis. Stats., a Class D Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both.

And furthermore, invoking the provisions of Wisconsin Statute 973.042(2), upon conviction for a crime under 948.05 or 948.12 and the defendant is at least 18 years of age at the time of the commission of the crime, the Court shall impose a surcharge of \$500.00 for each image or each copy of an image, as defined in 973.042(1), associated with the crime. The court shall determine the number of images or copies of images associated with the crime by a preponderance of the evidence and without a jury.

And furthermore, invoking the provisions of Wisconsin Statute Section 939.617, upon conviction the Court shall impose a bifurcated sentence including a term of initial confinement for at least three years. The Court may impose a sentence less than three years or place the person on probation

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upon a finding on the record that the Court finds the lesser sentence is in the best interests of the community and the public will not be harmed.

Count 2: POSSESSION OF CHILD PORNOGRAPHY

The above-named defendant, on or about Wednesday, June 15, 2011, in the City of Green Bay, Brown County, Wisconsin, did, having attained the age of 18, knowingly possess videotape(s) of a child engaging in sexually explicit conduct, and knew or reasonably should have known that the child was under the age of 18, contrary to sec. 948.12(1m)&(3)(a) Wis. Stats., a Class D Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both.

And furthermore, invoking the provisions of Wisconsin Statute 973.042(2), upon conviction for a crime under 948.05 or 948.12 and the defendant is at least 18 years of age at the time of the commission of the crime, the Court shall impose a surcharge of \$500.00 for each image or each copy of an image, as defined in 973.042(1), associated with the crime. The court shall determine the number of images or copies of images associated with the crime by a preponderance of the evidence and without a jury.

And furthermore, invoking the provisions of Wisconsin Statute Section 939.617, upon conviction the Court shall impose a bifurcated sentence including a term of initial confinement for at least three years. The Court may impose a sentence less than three years or place the person on probation upon a finding on the record that the Court finds the lesser sentence is in the best interests of the community and the public will not be harmed.

Complainant is an Assistant District Attorney with the Brown County District Attorney's Office and knows of the above offenses on information and belief based upon:

PROBABLE CAUSE

1. Her review of the report of Special Agent (S/A) Joseph Kapitany of the Wisconsin Department of Justice, Division of Criminal Investigation (DCI), who indicates that on June 15, 2011, law enforcement officers from DCI, along with officers from the Green Bay Police Department executed a search warrant at 1837 Rowe Lane, City of Green Bay, Brown County, Wisconsin. Said reports indicate at the time of the warrant, the occupants of the residence were identified as David J. Townsend, dob: 5/04/63, the defendant, his wife, Cheryl Townsend, and their two children. S/A Kapitany noted that during the search of the residence, one of the hard drives seized from a desktop computer in the upper level den/spare room, which belonged to the defendant, was seized and forensically previewed by DCI Crime Analyst Matt Olesen. As a result of the initial forensic preview, numerous files of child pornography were located on the hard drive. Said reports indicate that S/A Kapitany then interviewed the defendant, who indicated that he resides at the

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forementioned address along with his family. He indicated that he owns the residence and has been living there for approximately the last ten years. The defendant indicated he utilizes a computer in the upstairs den and he surfs a lot of pornography on this computer. He indicated this computer uses Microsoft Windows 98 and he uses Internet Explorer. He stated the primary programs he has used to search pornography are LimeWire and FrostWire. He stated, "Those two have some nasty stuff on them." He indicates that FrostWire replaced LimeWire and he has not used FrostWire in the last several months. The defendant stated he personally installed FrostWire on the computer and it was a free download program. He stated he does not download music or other types of videos via FrostWire and he only downloads pornography. He stated he does not use any pay sites to obtain pornography. S/A Kapitany asked the defendant if there was any child pornography on his desktop computer which would include children in pictures or videos posing nude, partially nude or engaging in sexual acts with other children or adults. The defendant admitted, "Probably." The defendant further stated he has over 1,000 pictures of pornography containing children in them and approximately 15 to 20 videos. S/A Kapitany asked the defendant if he had the pornography and child pornography separated into individual folders and he stated he had a folder containing the thousands of pictures of child pornography that he titled "pedo pics". The defendant further stated he had another folder called "flix", which contained all of the child pornography videos in it. He stated these two folders are his folders that he created and he downloaded all of the files located within the files. In the "pedo pics" folder, the defendant stated he had no idea exactly how many pictures were in there, but he stated, "All I know is it's a lot of porn." S/A Kapitany then asked the defendant if the "pedo pics" folder contained adult pornography or child pornography and the defendant stated, "Probably, mostly children in the pedo pics folder." The defendant then stated he had approximately 15 adult pornography folders that he named after websites that he obtained them from, including folders such as "X-art" and "Newbiles". He stated there are approximately 15 other folders containing adult pornography that he has separated in individual computer folders based on the websites he obtained them from. The defendant stated that most of the child pornography was young girls. S/A Kapitany asked the defendant why he separated the children into the "pedo pics" folder from the adult pornography and the defendant stated, "Obviously younger," as he described the children in the pictures in that folder located on his computer. S/A Kapitany asked the defendant if some of the young girls in the pictures and videos had any breast development and the defendant stated that many of them had absolutely no breast development. He further stated that many of them had no pubic hair or it is shaved, but most of them had no pubic hair visible. S/A Kapitany asked the defendant if he had sexual interest in younger children, but he stated he did not have sexual interest, but he was just curious about it. The defendant admitted he knew it might be illegal to possess child pornography, but claims he didn't know for sure. The defendant stated he had thought about deleting the folders and files, but never had. S/A Kapitany asked him why he was considering deleting them and the defendant stated because of the fact that it was kids. The defendant further admitted that he used to have many VHS tapes and DVD's of pornography, which also included child pornography, lying all over his house, but he destroyed all of those and now keeps it all on his computer. The defendant admitted that all of the pornography files and child pornography located on this desktop

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computer upstairs were his and they would not have been downloaded by anyone else in the residence.

S/A Kapitany indicates that on June 15, 2011, he then reviewed a preview disc that had been generated by Criminal Analyst Matthew Olesen from the hard drive of the desktop computer located in the upstairs den/extra room belonging to the defendant and located at 1837 Rowe Lane. S/A Kapitany indicated that he reviewed more than 26 photographs of child pornography. S/A Kapitany noted that the images depicted naked prepubescent girls who were exposing their genitalia or in sexually explicit poses. Based upon his training and experience, S/A Kapitany noted that the girls in the photographs appeared to be prepubescent with no breast development and little or no pubic hair. The specific genitalia that S/A Kapitany observed the girls exposing included their breasts and vaginas and the girls were partially or completely nude. S/A Kapitany further reviewed four video/movies from the hard drive of the same computer which showed videos of child pornography. In one of the videos, a young girl who appears to be prepubescent is observed performing oral sex on an adult male's penis in a video entitled "A Little Extra" and in a video entitled "Littlesisley10yo girl cum", S/A Kapitany observed a prepubescent girl who is disrobed by an adult male and the adult male then inserts his penis into the young girl's vagina. S/A Kapitany noted that his review of the photographs and videos was simply a preview or sampling of a small number of these items that were seized.

Complainant believes the report of Special Agent (S/A) Joseph Kapitany of the Wisconsin Department of Justice, Division of Criminal Investigation, because it was given in his capacity as a police officer. Based on the foregoing, the complainant believes this complaint to be true and correct.

Subscribed and sworn to before me,
and approved for filing on:

This 16th day of June, 2011.


Complainant


(Assistant) District Attorney